

## REMARKS

### I. Introduction

Upon entry of the present amendment, claims 2-19 will be pending in this application. Claims 2 and 16 have been amended to clarify the features of the invention. No new matter has been added. Based on the following remarks, Applicants respectfully request reconsideration and allowance of the pending claims.

### II. Rejections based on 35 U.S.C. § 102

The Examiner has rejected claims 2, 7, 8, 13-16, 18 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,810,515 to Bourdel.

The independent claims of the application, claims 2 and 16, require that each product carrier carries only one whole slaughtered bird or only one part thereof. *Bourdel* describes a process for the treatment of meat in which a pig carcass is divided in two half-carcasses C<sub>1</sub> and C<sub>2</sub>, which are conveyed by a carrier (gambrel 3). *Bourdel* does not teach that each product carrier carries one whole slaughtered bird. *Bourdel* teaches that each product carrier carries more than one part of a slaughtered animal.

Claims 2 and 16 also recite that at least some of the slaughtered birds or parts thereof are conveyed through at least a portion of the chilling room in different horizontal planes. Applicants respectfully submit that paths T<sub>1</sub>, T<sub>2</sub>, T<sub>3</sub> of *Bourdel* are not in different horizontal planes. FIG. 1 of *Bourdel* is “a general schematic plan view of an installation according to the invention. See col. 2, lines 37-38. Thus, it does not teach that paths T<sub>1</sub>, T<sub>2</sub>, T<sub>3</sub> are in different horizontal planes. In fact, *Bourdel* explicitly teaches that paths T<sub>1</sub>, T<sub>2</sub>, T<sub>3</sub> are

“different portions of trajectory parallel to one another in side the room R.” *See* col. 3, lines 1-3.

In summary, *Bourdel* fails to teach each and every element of the claim, either expressly or inherently. *See* M.P.E.P. § 2131. Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof.

The Examiner has rejected claims 2-4, 7, 12, 16, 18 under 35 U.S.C. 102(b) as being anticipated by *Veerkamp* “Evaporative Air Chilling of Sub-scald Poultry,” *Poultry International*. Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof.

Claims 2 and 16 recite that the moistening of each slaughtered bird or part thereof occurs when the slaughtered bird or part thereof is not exposed to the stream of chilling air. In Figure 1 of *Veerkamp*, the stars indicate the position of the spraying devices, which are inside the cooling space. Thus, *Veerkamp* teaches that the spraying occurs when the slaughtered bird or part thereof is exposed to the chilling air.

Furthermore, Applicants respectfully submit that the photographs in *Veerkamp* in fact show that all the birds are conveyed at a single horizontal level. Both pictures are taken in an upwards, inclined direction and show a number of carriers suspended from a transport conveyor. The backgrounds of the pictures show windows and other structures. Based on the perspective of the windows and other structures, it is clear that the transport conveyor extends in a horizontal direction at a single horizontal level. The transport conveyor therefore does not convey the birds at different horizontal levels, as is required by the claims. Thus, *Veerkamp* fails to teach each and every element of the claims.

The Examiner has rejected claims 2-4, 7, 13, 16, 17 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,595,066 to Zwanikken et al. Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof.

Applicants respectfully submit that *Zwanikken et al.* fails to teach all the elements of the claims. With regard to claims 2 and 16, *Zwanikken et al.* fails to teach that at least some of the slaughtered birds or parts thereof are conveyed through at least a portion of the chilling room in different horizontal planes. The single figure shows an embodiment of the device according to the invention in top view. *See* col. 3, lines 48-49. Thus, the figure fails to teach that there are different horizontal planes. No part of the description teaches that there are different horizontal planes. *Zwanniken et al.* also fails to teach product carriers carrying only one slaughtered bird or part thereof. With regard to claim 16, *Zwanikken et al.* also fails to teach that the spray means is positioned in a spray area separated from the stream of chilling air. The spraying stations 10 and 12 in the single figure are shown inside cooling room 13, without any means to separate the spraying area from the stream of chilling air.

### **III. Rejections based on 35 U.S.C. § 103**

The Examiner has rejected claims 2-4, 7, 8, 9, 11, 12, 14-16, 18, 19 under 35 U.S.C. 103(a)as being unpatentable over U.S. Patent No. 4,199,958 to Masuda et al. in view of Bourdel. Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof.

Applicants respectfully submit that the combination of *Masuda et al.* and *Bourdel* fails to teach that each product carrier carries only one whole slaughtered bird or only one part thereof. As admitted by the Examiner, *Masuda et al.* teaches that each product carrier

carries multiple carcasses. As explained above, *Bourdel* also fails to teach this element. Furthermore, one would not be motivated to modify *Masuda et al.* or *Bourdel* to carry only one whole slaughtered bird or only one part thereof. In known processing configurations, such as *Masuda et al.*, processing machines situated along the slaughterline were specifically designed so that they could process a group of animals or animal parts at once, rather than one at a time. *Masuda et al.* and *Bourdel* fail to teach or suggest all the claim limitations. Therefore, a *prima facie* case of obviousness has not been made.

The Examiner has rejected claims 6 under 35 U.S.C. 103(a) as being unpatentable over *Allen et al.*, "Investigation of hygiene aspects during air chilling of poultry carcasses using a model rig," British Poultry Science, in view of U.S. Patent No. 6,103,286 to *Gutzman et al.* Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof.

Applicants respectfully submit that when combined, *Allen et al.* and *Gutzman et al.*, fail to teach or suggest all the claim limitations. Neither *Allen et al.* or *Gutzman et al.* teach that at least some of the slaughtered birds or parts thereof are conveyed through at least a portion of the chilling room in different horizontal planes. Moreover, *Allen et al.* states that chlorinated waters sprays were applied for the first hour of chilling (*see Abstract*) and shows the air duct and water supply in the same room (*see Figure 1*). The proposed modification—moistening of each slaughtered bird or part thereof when the slaughtered bird or part thereof is not exposed to the stream of chilling air—would impermissibly change the principle of operation of *Allen et al.*

The Examiner has rejected claims 10 under 35 U.S.C. 103(a) as being unpatentable over *Allen* in view of U.S. Patent No. 4,196,221 to *Dew*. Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof. In the event that air is used in chilling poultry, *Dew* teaches that the compressed air can be joined to the water sprays. *See* col. 6, lines 44-46. As explained above, *Allen et al.* fails to teach many elements of the claims, including that the moistening of each slaughtered bird or part thereof occurs when the slaughtered bird or part thereof is not exposed to the stream of chilling air. Thus, when combined, *Allen et al.* and *Dew* fail to teach or suggest all the claim limitations.

## CONCLUSION

In light of the amendments and the above remarks, Applicants are of the opinion that the Office Action has been completely responded to and that the application is now in condition for allowance. Such action is respectfully requested.

If the Examiner believes any informalities remain in the application that may be corrected by Examiner's Amendment, or there are any other issues that can be resolved by telephone interview, a telephone call to the undersigned attorney at (404) 815-6409 is respectfully solicited.

Respectfully submitted,



Aleta A. Mills  
Reg. No. 47,794

KILPATRICK STOCKTON LLP  
1100 Peachtree Street  
Suite 2800  
Atlanta, Georgia 30309-4530  
(404) 815-6500  
Docket: V0028/300656